IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

CRL.A.No. 253 of 2001

AGAINST ORDER OF ACQUITTAL OF JUDICIAL MAGISTRATE OF THE FIRST CLASS-III, THRISSUR DATED 5/1/2001 IN CC NO. 945/99 SPECIAL LEAVE GRANTED AS PER ORDER DATED 14/03/2001 IN CRL. MC NO. 1748/2001.

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APPELLANT/COMPLAINANT:

K.H. MUHAMMED BASHEER,
S/O. R.V. HYDROSE, KERAPPAM VEEDU,
PULIPARAMBU DESOM, OLLUKKARA, THRISSUR.

BY ADV. SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE

RESPONDENTS/ACCUSED:
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1. **STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

2. **SIABUDEEN S/O. SAIDU MUHAMMED RAVUTHAR, PROPRIETOR, SMR FOOTWARE, MARKET ROAD, PALAKKAD- 14.**

BY PUBLIC PROSECUTOR SRI. DILIP

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 12/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.A.NO.253 of 2001

DATED THIS THE 12th July 2007

JUDGMENT

The appellant is the complainant in C.C.No. 945/1999 in the file of the Judicial Magistrate of First Class-III, Thrisur with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal procedure. It is the case of the appellant that on the particular day, he happened to be absent on account of wrong noting of the posting date.

In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 10-8-2007. The court below shall issue fresh summons to the accused/respondent. The appeal is allowed.

K.R. UDAYABHANU, JUDGE

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K.R. UDAYABHANU,J.

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CRL.A.NO.253 of 2001

JUDGMENT

12-7-2007

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